United Nations A/CN.9/WG.VI/WP.76

General Assembly

Distr.: Limited
12 February 2018

Original: English

United Nations Commission on International Trade Law
Working Group VI (Security Interests)
Thirty-third session
New York, 30 April–4 May 2018

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session and scheduling of meetings.
2. Election of officers.
3. Adoption of the agenda.
4. Draft Practice Guide to the UNCITRAL Model Law on Secured Transactions.
5. Adoption of the report.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czech Republic (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022), Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).

2. Member States not members of the Commission, non-Member States having received a standing invitation to participate as observers in the sessions and the work of the General Assembly, and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization

Please recycle

concerned has expertise or international experience so as to facilitate the deliberations at the session.

III. Annotations to agenda items

Item 1. Opening of the session and scheduling of meetings

3. The thirty-third session of the Working Group will be held at the United Nations Headquarters, New York, from 30 April to 4 May 2018. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 to 6 p.m., except on Monday, 30 April 2018, when the session will be opened at 10.30 a.m.

Item 2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Draft Practice Guide to the UNCITRAL Model Law on Secured Transactions

(a) Background information

5. At its fiftieth session (Vienna, 3–21 July 2017), the Commission considered a note by the Secretariat entitled "Possible future legislative work on security interests and related topics" (A/CN.9/913) and a proposal by the Governments of Australia, Canada, Japan and the United Kingdom "Possible future work on security interests: Proposal for a Practice Guide to Enactment of the UNCITRAL Model Law on Secured Transactions" (A/CN.9/926). The latter (A/CN.9/926) suggested that the Commission should prepare a practice guide to provide guidance to potential users of the UNCITRAL Model Law on Secured Transactions (the "Model Law") with respect to contractual, transactional, and regulatory issues related to secured transactions, as well as financing of micro-businesses.

6. There was general support in the Commission for the preparation of such a practice guide to the Model Law. It was widely felt that, without guidance on a number of practical issues, users of secured transactions laws implementing the Model Law (such as parties to transactions, judges, arbitrators, regulators, insolvency administrators and academics) would not be able to use those laws to their maximum benefit. It was felt that the practice guide could address contractual issues (such as the types of secured transaction that were possible under the Model Law), transactional issues (such as the valuation of collateral) and regulatory issues (such as the conditions under which movable assets were treated as eligible collateral for regulatory purposes) as well as issues relating to finance to micro-businesses (such issues relating to the enforcement of security interests).[1]

7. After discussion, the Commission decided that a practice guide on secured transactions should be prepared and referred that task to the Working Group. It was agreed that issues addressed in document A/CN.9/926 and the relevant sections of document A/CN.9/913 should form the basis of that work. The Commission further agreed that broad discretion should be left to the Working Group in determining the scope, structure and content of the practice guide.[2]

8. At its thirty-second session (Vienna, 11–15 December 2017), the Working Group began its preparation of a draft Practice Guide on the basis of a note by the Secretariat, which provided an annotated list of contents (A/CN.9/WG.VI/WP.75). At that session, it was generally observed that the purpose of the Practice Guide would be to provide practical guidance to users of secured transactions in States that have enacted, or were considering enacting, the Model Law. It was stressed that the main

[1] *Official Records of the General Assembly, Seventy-Second Session, Supplement No. 17* (A/72/17), paras. 222 and 223.

[2] Ibid., para. 227.

objective would be to illustrate how the Model Law operated and how potential users could benefit from such operation (particularly focusing on practical transactional opportunities that would be available under the Model Law). Furthermore, it was widely felt that another key purpose of the Practice Guide was to bridge the gap between law and business practice. At the end of the session, the Working Group requested the Secretariat to prepare a first draft of the Practice Guide based on its preliminary discussions on its scope, structure and contents.

9. At its thirty-third session, the Working Group is expected to continue its preparation of a draft Practice Guide on the basis of a note by the Secretariat (A/CN.9/WG.VI/WP.77 and addendum).

(b) Documentation

10. The Working Group will have before it a note by the Secretariat entitled "Draft Practice Guide to the UNCITRAL Model Law on Secured Transactions" (A/CN.9/WG.VI/WP.77 and addendum).

11. A limited number of the following background documents will be made available at the session:

- United Nations Convention on the Assignment of Receivables in International Trade (2001);
- UNCITRAL Legislative Guide on Secured Transactions (2007);
- UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property (2010);
- UNCITRAL Guide on the Implementation of a Security Rights Registry (2013);
- UNCITRAL Model Law on Secured Transactions (2016);
- Guide to Enactment of the UNCITRAL Model Law on Secured Transactions (2017);
- Report of the United Nations Commission on International Trade Law on the work of its fiftieth session (Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17));
- Report of Working Group VI (Security Interests) on the work of its thirty-second session (A/CN.9/932).

12. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Group Documents" section of the UNCITRAL website.

Item 5. Adoption of the report

13. The Working Group may wish to adopt, at the close of its session, a report for submission to the fifty-first session of the Commission, scheduled to be held in New York, from 25 June to 13 July 2018. The main conclusions reached by the Working Group at its ninth meeting (Friday morning) will be summarily read out for the record at the tenth meeting (Friday afternoon) and subsequently incorporated into the report.

IV. Scheduling of meetings

14. The thirty-third session of the Working Group will last for five working days. There will be ten half-day meetings available for consideration of the agenda items. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session,[3] the Working Group is expected to hold

[3] Ibid., *Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), para. 381.

substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group on Friday afternoon.

15. The Working Group may wish to note that its thirty-fourth session is tentatively scheduled to be held in Vienna from 26 to 30 November 2018.